

June 30, 2008



## COURT OF APPEALS ISSUES WAL-MART DECISION

### Inside this issue:

<i>Planning Commission to Discuss Historic Preservation Program</i>	2
<i>Hearing Examiner Denies Animal Shelter Appeal</i>	3

On June 3, the Washington State Court of Appeals for Division III issued its decision to uphold the city's Determination of Nonsignificance (DNS) and site plan approval regarding the Wal-Mart store proposed for SE Bishop Boulevard in Pullman. The appeal was filed by the Pullman Alliance for Responsible Development (PARD). The case was entertained first by the Pullman hearing examiner, and was then heard by the Whitman County Superior Court before it was transmitted to the Court of Appeals.

In its written decision, the court said, "A recurrent theme in PARD's appeal is that the examiner failed to enter adequate findings of fact and conclusions of law for review....However, we consider the examiner's findings of fact and conclusions of law to be adequate for review and reject PARD's claims to the contrary."

A major part of the PARD appeal related to the city's site plan approval addressed alleged deficiencies in Wal-Mart's traffic impact analysis, which estimated the store would generate about 11,120 vehicular trips per day. In response, the court stated that "substantial evidence supports the examiner's findings that the traffic impact analysis used proper methodology to estimate new daily trips and the determination that the traffic impact analysis is technically

adequate." PARD also contended that the hearing examiner erred in determining that the site plan review adequately considered the project's fiscal impacts on the city and on the community's residents and businesses. The court ruled in this regard that "the [city code] requires only that the City consider the fiscal impacts of the project on the City as a municipal corporation and not on other businesses," and "the City in fact considered fiscal impacts of the project on the City as required by [city code]." In addition, PARD claimed that the city did not adequately consider the provisions of the Comprehensive Plan in its decision, most notably because the city did not address potential economic effects on the downtown commercial district. The court decided that PARD's contentions "do not indicate that the City failed to consider its comprehensive plan when approving the site plan."

PARD argued that the DNS should be reversed because the applicant and the city failed to comply with State Environmental Policy Act requirements to assess traffic/pedestrian impacts and potential urban blight attributable to business competition. The court rejected the appellant's contentions on these grounds as well.

The June 26 edition of The Summer Evergreen reported that PARD has

*(Continued on page 2)*

announced it will not continue its legal challenge against the proposed Wal-Mart store. The article stated, "PARD legal liaison Judith Krueger said the group has always taken the position that it would pursue a lawsuit only if it felt it had a significant chance of victory." PARD member Christopher Lupke was quoted in the story as saying, "PARD members continue to oppose a Bishop Boulevard supercenter and will do everything we can except a legal appeal to find another solution."

## PLANNING COMMISSION TO DISCUSS HISTORIC PRESERVATION PROGRAM

One of the City Council's adopted goals for 2008 reads as follows:

Pursue the creation of design standards within the College Hill Historic District and becoming a Washington Certified Local Government Program for historic preservation.

To help advance this goal, the Planning Commission has scheduled a discussion of the Certified Local Government (CLG) program for its meeting of July 23.

The CLG program was established by Congress as part of the National Historic Preservation Act. It establishes a federal/state/local partnership involving financial and technical assistance for the purpose of preserving historic properties. Local governments that establish a historic preservation program meeting federal and state standards are eligible to apply to the State Historic Preservation Officer and the National Park Service for certification. A local government that receives such certification becomes known as a "Certified Local Government."



All local governments requesting certification must satisfy the following five minimum requirements:

1. establish and maintain a qualified historic preservation commission;
2. maintain a system for the survey and inventory of local historic properties in coordination with the State Historic Preservation Office;
3. enforce state or local legislation for the designation and protection of historic properties;
4. provide for public participation in its activities; and,
5. satisfactorily perform the responsibilities delegated to it by the State Historic Preservation Office.

*(Continued on page 3)*





CLG communities are eligible to apply for grant funding from the State Historic Preservation Officer. They also receive technical assistance and training from the State Department of Archaeology and Historic Preservation, and they review and make recommendations on all nominations of local properties to the National Register of Historic Places before such nominations are submitted to the State Historic Preservation Officer. At last count, there are 63 jurisdictions in Washington

state that are participating in this program.

At the Planning Commission meeting of July 23, the committee will discuss this matter and accept public input on the program. The session will be conducted at 7:30 p.m. in the City Hall Council Chambers. (Please note that, since this will be a regular meeting of the Commission, it may entertain other business prior to this agenda item.) All interested community members are encouraged to attend this session to participate in the proceedings.

---

## HEARING EXAMINER DENIES ANIMAL SHELTER APPEAL

In last month's issue of the Planning Department Newsletter, we reported that Pullman Hearing Examiner Stacy Bjordahl held a public hearing in late May to consider an appeal regarding a DNS issued by the city of Pullman under SEPA rules for the proposed Animal Haven Pet Adoption Center. The planned animal shelter facility involves construction of five buildings on a 6.2-acre site near the intersection of SE Johnson Avenue and SE Old Moscow Road. The appeal was filed by six parties who own land in the vicinity. The issues cited in the appeal document included noise, stray animals, odors, and reduction of property value.

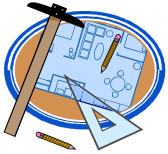
On June 18, Ms. Bjordahl issued a decision to deny the appeal. In the Findings and Conclusions section of her decision, the hearing examiner wrote the following:

Because none of the Appellants filed written comments during the commenting period [allowed in the early stages of the SEPA process] the Appellants are barred from challenging the City's environmental determination. As such, the Appellants do not have standing and have failed to exhaust their administrative remedies (commenting on the Preliminary DNS).

The hearing examiner stated in her opinion that, since the appellants were found to not have legal standing in this case, she did not need to address the substantive issues raised in the appeal.



The existing Whitman County Humane Society animal shelter is located on Guy Street.



## Pending Land Use Applications

Displayed below are land use applications submitted to the planning or public works department or city-generated proposals for planning provisions that require a public meeting, public notice, or site plan review in accordance with the city code.

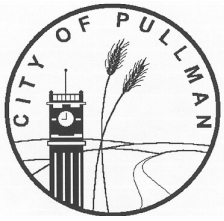
PROJECT	DESCRIPTION	LOCATION	STATUS
Hinrichs Annexation	annex 37 acres to the city	west of Sunnyside Park and north of SW Old Wawawai Road	applicant revising legal description of property
Askins Annexation	annex 35.8 acres to the city	Johnson Road south of the Village Centre Cinemas	CC hearing scheduled for 7/8
Whispering Hills No. 5 Subdivision Preliminary Plat	divide 34.0 acres into 108 lots in R1 & R2 districts	west terminus of SW Center Street	PC recommended approval 6/11; CC meeting scheduled for 7/8
Whispering Hills No. 5 Preliminary Planned Residential Development	establish 40 homes on 6.3 acres	west terminus of SW Center Street	PC recommended approval 6/11; CC meeting scheduled for 7/8
High School Athletic Field Scoreboard Conditional Use Permit (C-08-2)	install 96-sq-ft scoreboard on lower athletic field	Pullman High School; 510 NW Larry Street	BA approved permit on 6/16
Appeal of Wal-Mart Supercenter SEPA determination and site plan	develop 223,000-sq-ft store on a 28-acre site	south of SE Harvest Drive/Bishop Boulevard intersection	Court of Appeals on 6/3 affirmed the decision of Superior Court
Appeal of Animal Haven SEPA determination	develop 12,000-sq-ft animal shelter on 6.2-acre site	1350 SE Old Moscow Road	hearing examiner denied appeal on 6/18
High School Storage Building site plan (07-21)	construct 840-sq-ft storage building at high school	510 NW Larry Street	staff requested applicant to revise site plan

KEY TO ZONING DISTRICTS: R1 Single Family Residential; RT Residential Transitional; R2 Low Density Multi-Family Residential; R3 Medium Density Multi-Family Residential; R4 High Density Multi-Family Residential; C1 Neighborhood Commercial; C2 Central Business District; C3 General Commercial; I1 Light Industrial; I2 Heavy Industrial; IRP Industrial Research Park; WSU Washington State University

KEY TO ABBREVIATIONS: CC: City Council; PC: Planning Commission; BOA: Board of Adjustment; DOE: State Department of Ecology; LC: Landmarks Commission

NOTES: 1) If an applicant fails to act on a pending application for a period of six months, said application will be dropped from the above list.. 2) Numbers in parentheses are planning staff's internal file numbers. 3) Site plan review by city staff is generally conducted for proposed construction of developments other than single family homes, duplexes, or manufactured homes; it does not apply to most construction on the WSU campus.





*Planning Department  
325 SE Paradise St.  
Pullman, WA 99163*

Phone: 509-338-3213  
Fax: 509-338-3282  
Email: [bethany.johnson@pullman-wa.gov](mailto:bethany.johnson@pullman-wa.gov)

**Pullman Planning Department Staff**

Pete Dickinson, Planning Director  
Jason Radtke, Assistant Planner  
Bethany Johnson, Public Works Administrative  
Assistant  
Kealan Emerson, Public Works Administrative  
Specialist  
Neil Jeffers, Engineering/Planning Aide  
Evan Pond, Engineering/Planning Aide

This newsletter is an occasional and voluntary publication of the planning department and does not take the place of official notices required by law. Information provided in this newsletter is subject to change. Please contact the planning department or review official notices distributed by the city to confirm the information contained herein.

For any readers who are not currently receiving this newsletter by email and who wish to register for this service, please contact the planning department for assistance.

---

**WE'RE ON THE WEB!**

**[WWW.PULLMAN-WA.GOV](http://WWW.PULLMAN-WA.GOV)**

---